
SUBSTITUTE SENATE BILL 5099

State of Washington

64th Legislature

2015 Regular Session

By Senate Human Services, Mental Health & Housing (originally sponsored by Senators Darneille, O'Ban, Conway, Dammeier, Roach, Miloscia, and Becker)

READ FIRST TIME 01/30/15.

1 AN ACT Relating to restricting conditional releases of sexually
2 violent predators outside their county of commitment; and amending
3 RCW 71.09.096.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 71.09.096 and 2009 c 409 s 10 are each amended to
6 read as follows:

7 (1) If the court or jury determines that conditional release to a
8 less restrictive alternative is in the best interest of the person
9 and includes conditions that would adequately protect the community,
10 and the court determines that the minimum conditions set forth in RCW
11 71.09.092 and in this section are met, the court shall enter judgment
12 and direct a conditional release.

13 (2) The court shall impose any additional conditions necessary to
14 ensure compliance with treatment and to protect the community. If the
15 court finds that conditions do not exist that will both ensure the
16 person's compliance with treatment and protect the community, then
17 the person shall be remanded to the custody of the department of
18 social and health services for control, care, and treatment in a
19 secure facility as designated in RCW 71.09.060(1).

20 (3) If the service provider designated by the court to provide
21 inpatient or outpatient treatment or to monitor or supervise any

1 other terms and conditions of a person's placement in a less
2 restrictive alternative is other than the department of social and
3 health services or the department of corrections, then the service
4 provider so designated must agree in writing to provide such
5 treatment, monitoring, or supervision in accord with this section.
6 Any person providing or agreeing to provide treatment, monitoring, or
7 supervision services pursuant to this chapter may be compelled to
8 testify and any privilege with regard to such person's testimony is
9 deemed waived.

10 (4) Prior to authorizing any release to a less restrictive
11 alternative, the court shall impose such conditions upon the person
12 as are necessary to ensure the safety of the community. The court
13 shall order the department of corrections to investigate the less
14 restrictive alternative and recommend any additional conditions to
15 the court. These conditions shall include, but are not limited to the
16 following: Specification of residence, prohibition of contact with
17 potential or past victims, prohibition of alcohol and other drug use,
18 participation in a specific course of inpatient or outpatient
19 treatment that may include monitoring by the use of polygraph and
20 plethysmograph, monitoring through the use of global positioning
21 satellite technology, supervision by a department of corrections
22 community corrections officer, a requirement that the person remain
23 within the state unless the person receives prior authorization by
24 the court, and any other conditions that the court determines are in
25 the best interest of the person or others. A copy of the conditions
26 of release shall be given to the person and to any designated service
27 providers.

28 (5)(a) Prior to authorizing release to a less restrictive
29 alternative, the court shall consider whether it is appropriate to
30 release the person to the person's county of commitment. To ensure
31 equitable distribution of releases, and prevent the disproportionate
32 grouping of persons subject to less restrictive orders in any one
33 county, or in any one jurisdiction or community within a county, the
34 legislature finds it is appropriate for releases to a less
35 restrictive alternative to occur in the person's county of
36 commitment, unless the court determines that the person's return to
37 his or her county of commitment would be inappropriate considering
38 any court-issued protection orders, victim safety concerns, the
39 availability of appropriate treatment or facilities that would
40 adequately protect the community, negative influences on the person,

1 or the location of family or other persons or organizations offering
2 support to the person. When the department or court assists in
3 developing a placement under this section which is outside of the
4 county of commitment, and there are two or more options for
5 placement, it shall endeavor to develop the placement in a manner
6 that does not have a disproportionate effect on a single county.

7 (b) If the committed person is not conditionally released to his
8 or her county of commitment, the department shall provide the law and
9 justice council of the county in which the person is conditionally
10 released with notice and a written explanation.

11 (c) For purposes of this section, the person's county of
12 commitment means the county of the court which ordered the person's
13 commitment.

14 (d) This subsection (5) does not apply to releases to a secure
15 community transition facility under RCW 71.09.250.

16 (6) Any service provider designated to provide inpatient or
17 outpatient treatment shall monthly, or as otherwise directed by the
18 court, submit to the court, to the department of social and health
19 services facility from which the person was released, to the
20 prosecuting agency, and to the supervising community corrections
21 officer, a report stating whether the person is complying with the
22 terms and conditions of the conditional release to a less restrictive
23 alternative.

24 ((+6))~~(7)~~ Each person released to a less restrictive alternative
25 shall have his or her case reviewed by the court that released him or
26 her no later than one year after such release and annually thereafter
27 until the person is unconditionally discharged. Review may occur in a
28 shorter time or more frequently, if the court, in its discretion on
29 its own motion, or on motion of the person, the secretary, or the
30 prosecuting agency so determines. The sole question to be determined
31 by the court is whether the person shall continue to be conditionally
32 released to a less restrictive alternative. The court in making its
33 determination shall be aided by the periodic reports filed pursuant
34 to subsection ~~((+5))~~(6) of this section and the opinions of the
35 secretary and other experts or professional persons.

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